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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

REBECCA CHIARAMONTI, et al.,)	Case No. 2:24-cv-01484-JAD-EJY
)	(Lead Case)
Plaintiffs,)	<i>Consolidated with</i>
)	
v.)	Case No. 2:24-cv-01490-JAD-EJY (Anderson)
)	Case No. 2:24-cv-01737-JAD-EJY (Tidwell)
UNITED STATES OF AMERICA,)	Case No. 2:24-cv-01896-JAD-EJY (Dale)
)	
Defendant.)	STIPULATION FOR (1) ORDER
)	PERMITTING PRODUCTION OF
AND CONSOLIDATED ACTIONS)	PRIVACY ACT PROTECTED RECORDS
)	AND (2) PROTECTIVE ORDER

Pursuant to Federal Rule of Civil Procedure 26(c)(1) and 5 U.S.C. § 552a(b)(11) (part of the Privacy Act), Plaintiffs Rebecca Chiaramonti, Individually and as Special Administrator of the Estate of Anthony L. Chiaramonti, deceased, Lewis Chiaramonti, and Adele Chiaramonti (Plaintiffs); Plaintiffs Tarra Tidwell as Special Administrator of the Estate of Zachary Rainey, deceased, A.P.R., by and through his mother Tarra Tidwell, and A.B.R., by and through his mother Tarra Tidwell; Plaintiff Cathy Zee Anderson, as personal representative of the Estate of Donald S. Goldberg; Plaintiff, Scott Dale, Individually and as Executor of the Estate of Carol Ann Scanlon, deceased, and Defendant the United States, stipulate and respectfully request the Court enter an Order, as contemplated by 5 U.S.C. § 552a(b)(11), authorizing the United States to disclose certain records of federal government employees protected by the Privacy Act, 5 U.S.C. § 552a.¹ The parties also stipulate to, and request the entry of, the following proposed protective order governing the marking, use and handling of records protected by the Privacy Act and other confidential materials.

In support of these requests, the parties submit:

1. Under Fed. R. Civ. P. 34, the Chiaramonti Plaintiffs requested employee training records, performance standards and individual performance management records for two air traffic control specialists employed by the Federal Aviation Administration whose conduct is at issue in this case. On March 12, 2025, the United States objected to producing those records in its Fed. R. Civ. P. 34 (b)(2) response because, absent a court order or other specified statutory exceptions, they are protected from disclosure by the Privacy Act. *See* 5 U.S.C. § 552a. The

¹ The Privacy Act prohibits disclosure of “records” maintained by an agency about an individual that are contained in a “system of records,” subject to certain exceptions. 5 U.S.C. § 552a(b). A “record” is “any item, collection, or grouping of information about an individual that is maintained by an agency . . . that contains his name . . . or other identifying particular assigned to the individual” *Id.* § 552a(a)(4). A “system of records” is “a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.” *Id.* § 552a(a)(5).

1 responsive documents also contain personal, employment-related information about the air
2 traffic controllers.

3
4 2. Under Fed. R. Civ. P. 34, the Tidwell Plaintiffs requested the same training files,
5 individual performance management records and performance records of conference for the two
6 air traffic controllers. On March 3, 2025, the United States objected to producing those records
7 in its Fed. R. Civ. P. 34 (b)(2) response because, absent a court order or other specified statutory
8 exceptions, they are protected from disclosure by the Privacy Act. See 5 U.S.C. § 552a. The
9 responsive documents also contain personal, employment-related information about the air
10 traffic controllers.
11

12 3. A Government agency shall not disclose Privacy Act protected records to any person
13 except under certain specified conditions. 5 U.S.C. § 552a(b). One such condition is “pursuant
14 to the order of a court of competent jurisdiction.” 5 U.S.C. § 552a(b)(11).
15

16 4. The parties stipulate and respectfully request the Court, through approval of this
17 Stipulation, authorize the Department of Justice to disclose to Plaintiffs the records described in
18 Paragraphs 1 - 2 above pursuant to 5 U.S.C. § 552a(b)(11) in accordance with the terms
19 governing handling and dissemination below.

20 5. The parties also stipulate and respectfully request the Court, through approval of this
21 Stipulation, enter the following Protective Order under Fed. R. Civ. P. 26(c) concerning handling
22 of the records described in Paragraphs 1 – 2, and any other documents or information the parties
23 may designate as confidential in accordance with Paragraph 6; as well as procedures for
24 resolving issues arising from the unauthorized or inadvertent disclosure of attorney work
25 product, attorney client privilege, governmental privilege(s) or other confidential materials.
26
27
28

[PROPOSED] PROTECTIVE ORDER

6. Any party to this action may, in good faith, designate a document or information which, in the opinion of that party, contains confidential or sensitive information, by designating the material as subject to this Protective Order by marking the material as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.”

7. Upon production of material designated as Confidential under Paragraph 6 of this Order, the parties agree to maintain its confidentiality. No party will publicly disseminate the materials or information contained therein. Materials produced pursuant to this Protective Order shall be used by the parties solely for pre-trial investigation and discovery, preparation for trial, trial, and other proceedings in this action, and shall not be used for any other purpose.

8. Access to and the disclosure of material designated Confidential under Paragraph 6 shall be limited to “qualified persons,” as defined in Paragraph 9 below.

9. “Qualified persons” are limited to the following individuals:

- a. The parties in this action, the attorneys representing the parties in this action, and their legal assistants, paralegals, information technology personnel and other support personnel who are directly employed or contracted by those attorneys;
- b. Experts or consultants retained by any party in connection with this action;
- c. Fact witnesses during their deposition, or in preparation for their testimony;
- d. The Court and Court personnel, including stenographic reporters and video personnel engaged in such proceedings as are necessary in preparing for trial in this action; and

1 e. Such other persons upon additional separate agreement of the parties or order
2 of the Court.

3 10. Prior to disclosing material designated as Confidential under this Protective Order to
4 any person designated in Paragraph 9(b) or (c), counsel shall advise the person that the material
5 is subject to the terms of this Protective Order, shall provide the person with a copy of this
6 Protective Order, and the person shall agree to abide by the terms of this Protective Order in the
7 same manner as would a receiving party relative to such material. The person shall sign the
8 attached acknowledgement.
9

10 11. When any material designated as Confidential under Paragraph 6 is marked as an
11 exhibit, or otherwise used during questioning at or in connection with deposition, counsel shall
12 inform the court reporter and witness of the designation, and the applicable portions of the
13 deposition transcript shall also be marked and treated as “CONFIDENTIAL – SUBJECT TO
14 PROTECTIVE ORDER,” in accordance with the terms of this Protective Order.
15

16 12. Upon request from the party receiving material designated as subject to this
17 Protective Order, the designating party will promptly explain its basis for so designating that
18 material.
19

20 13. If a party objects to the designation of material as confidential, that party shall notify
21 the designating party in writing of such objections, and the specific reasons and support for such
22 objections (the “Designation Objections”), no later than fourteen (14) days after the close of
23 discovery. Counsel for the designating party shall have thirty (30) days from receipt of the
24 written Designation Objections to either (a) agree in writing to de-designate material pursuant to
25 any or all of the Designation Objections and/or (b) file a motion with the Court seeking to uphold
26 any or all designations on material addressed by the Designation Objections. Until the parties or
27 Court, as applicable, resolve the objection, the material shall be treated as confidential and not
28

1 further disclosed except as authorized by this Protective Order. The designating party shall have
2 the burden on any motion of establishing the applicability of its “Confidential” designation. In
3 the event that the Designation Objections are neither timely agreed to nor timely addressed in the
4 designation motion, then such material shall be de-designated in accordance with the
5 Designation Objection applicable to such material.
6

7 14. This Protective Order is without prejudice to the rights of a party to make other
8 objections, for example, relevance or attorney-client privilege, to discovery requests and to the
9 introduction of designated material as evidence at trial or during summary judgment
10 proceedings.
11

12 15. Procedures for unauthorized or inadvertent disclosure of documents containing
13 attorney work product, attorney-client privilege, governmental privilege (hereafter “privilege”)
14 or other confidential information:

- 15 a. The production of a document or part of a document, as well as the
16 production of a document without the appropriate designation of
17 confidentiality shall not constitute a waiver of any privilege or of
18 confidentiality as to any portion of that document, or as to any
19 undisclosed privileged or protected communications or information
20 concerning the same subject matter, in this or in any other proceeding.
21
22 b. If the producing party determines that a document produced, or part
23 thereof, is subject to a privilege or is otherwise confidential, the
24 producing party shall give the receiving party notice of the claim of
25 privilege or confidentiality in writing (notice).
26
27 c. Upon receiving such notice described in paragraph (b), if the receiving
28 party agrees with the privilege or claim of confidentiality, the receiving

1 party must return the specified document(s) and any copies thereof within
2 five days or destroy the document(s) and copies and certify to the
3 producing party that the document(s) and copies have been destroyed
4 within five days. The receiving party shall also attempt, in good faith, to
5 retrieve and return or destroy all copies of the documents in electronic
6 format. If a receiving party disclosed the document or information
7 specified in the notice before receiving the notice, it must take reasonable
8 steps to retrieve it and so notify the producing party of the disclosure and
9 its efforts to retrieve the document or information.
10

11 d. Upon receiving the privilege notice, if the receiving party wishes to
12 dispute a producing party's privilege or confidentiality notice, the
13 receiving party shall promptly meet and confer with the producing party.
14 The document shall be sequestered immediately upon receiving the
15 privilege notice and not be used by the receiving party in the litigation or
16 disclosed (e.g., filed as an exhibit; used in a deposition) while the dispute
17 is pending. If the parties are unable to come to an agreement about the
18 dispute, the designating party may make a motion to compel return of the
19 of the material. On any such motion the receiving party may not challenge
20 the privilege or confidentiality claim by arguing that disclosure itself is a
21 waiver.
22

23 e. The burden of proving the confidentiality of designated information
24 remains with the party asserting such confidentiality. The provisions of
25 Fed. R. Civ. P. 37(a)(5) apply to such motions.
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27
28

1 f. Pending resolution of the judicial determination, the parties shall both
2 preserve and refrain from using the challenged information for any
3 purpose and shall not disclose it to any person except and unless the
4 receiving party makes a sealed motion for a judicial determination of the
5 privilege claim. Any motion challenging the claim of privilege or
6 confidentiality must not publicly disclose the information claimed to be
7 privileged or confidential.
8

9 16. Within sixty days of the conclusion of this litigation (including as applicable
10 exhaustion of appellate proceedings), the receiving party shall (i) return to the disclosing party or
11 shred, delete, and destroy, as applicable, and not retain, any and all paper and electronic copies
12 and images of all materials designated by the disclosing party as subject to this Protective Order,
13 and (ii) certify in writing to the disclosing party that the receiving party has complied with
14 requirements in clause (i) of this paragraph.
15

16 DATED: April 16, 2025

17 SO STIPULATED:

18 UNITED STATES DEPARTMENT OF JUSTICE

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IT IS SO ORDERED

Dated: April 17, 2025


UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

WRITTEN ACKNOWLEDGMENT

I, _____, have read the attached Stipulated Protective Order approved by the Court in the cases consolidated under the lead case *Chiaramonti v. United States of America*, 2:24-cv-01484-JAD-EJY. I agree to be bound by, and comply with, all of its terms and conditions.

Signature: _____

Date: _____